Report to the Legislature

Safety of Newborn Children

Chapter 331, Laws of 2002, section 8(4)
RCW 13.34.360, sections 2-3

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Report to Governor and Legislators

Newborn Children—Safety Act

EXECUTIVE SUMMARY

Chapter 331, Laws of 2002, section 8(4), (The Newborn Safety Act or, "the Act") RCW 13.34.360, is an act relating to the safety of newborn children. The Department of Social and Health Services (DSHS) was directed to convene a task force to recommend methods of implementing this act.

The Legislature's intent in passing this law was to assure that abandonment does not occur and that all newborns have an opportunity for adequate health care and a stable home life. The Legislature intends to increase the likelihood that pregnant women will obtain adequate prenatal care and will provide their newborns with adequate health care during the first few days of their lives. Passage of this legislation allows the parent to transfer a newborn anonymously and without criminal liability if the transfer occurs at a hospital emergency department or at a fire station during its hours of operation and while fire personnel are present.

The department convened a task force meeting the membership requirements outlined in the legislation. The task force met a total of four times and developed recommendations and drafted model policies, procedures, and forms to assist Washington communities to implement this new law. Some areas of discussion fell outside the scope of the task force guidelines identified in the legislation; however, the task force felt that these discussions were relevant in relation to the implementation of this legislation. The task force did not work on detailed recommendations in these areas, but did feel general recommendations to the Legislature regarding these challenges were appropriate in this report.

Summary of Recommendations

- A state agency, to be determined by the Governor, should have administrative responsibility to oversee and/or implement necessary steps to ensure a continuing education effort.

- Existing telephone crisis lines and any resource line or agency that might have the opportunity to counsel a pregnant or recently postpartum woman or her influencers will be the primary vehicle for educating the public about this law.

- The state agency designated to oversee the education effort should create and disseminate a standardized educational message to all crisis/resource lines and agencies for use in educating those seeking information about pregnancy or parenting options.

- The designated state agency should ensure development of a media packet for use by public information officers.

- The designated state agency should oversee the development of a brochure targeted for pregnant women, but also of use to the general public.

- A mass media campaign, which would require considerable funding would include education in the form of bus signs, posters, and radio/television public service announcements.

- In order to meet the medical and emotional needs of the mother and to access medical history of the parents and newborn, transfer sites should provide parent information packets on site and on-line. The information in these packets would provide resource information to the parent and an opportunity for the parent to give additional social and medical history for the child.

The task force recognizes that there is no public money available to support expensive efforts. The top priority is education of personnel who are most likely to interact with a pregnant or recently postpartum woman in crisis.

For lower cost recommendations, funding may be attained through legislative appropriation and/or in-kind contributions, or transfer of funds within lead agencies. For higher cost recommendations, the task force suggests that the Legislature orchestrate a combination of private and public funding. All possible appropriate outside funding, including federal funding, should be explored. The task force elected not to identify specific possible sources of such funding.

Hospitals and fire stations should develop written policies and procedures to accommodate the transfer of infants under the Act, using the models provided in this report or by creating their own.

INTRODUCTION

Chapter 331, Laws of 2002, section 8(4) is a law relating to immunity from prosecution. The law provides legal immunity from criminal prosecution to a parent, who transfers a newborn in accordance with this law, by amending RCW 9A.42.060 – 080 and RCW 26.20.30 – 035. It also gives the parent of the newborn the right to anonymity at the time of transfer. The parent transferring the newborn is encouraged, but not required, to provide any identifying information when transferring the newborn. The ultimate goal and intent of the Legislature is the safety and care of the newborn. The Act makes no changes to Washington dependency and adoption laws.

In accordance with this law, the parent must transfer the newborn to a qualified person at an appropriate location. Newborn, for the purpose of this law, is defined as a live human being less than seventy-two hours old.

A qualified person is defined as "any person that the parent transferring the newborn reasonably believes is a bona fide employee, volunteer, or medical staff member of the hospital and who represents to the parent transferring the newborn that he or she can and will summon appropriate resources to meet the newborn's immediate needs; or a fire fighter, volunteer, or emergency medical technician at a fire station who represents to the parent transferring the newborn that he or she can and will summon appropriate resources to meet the newborn's immediate needs."

An appropriate location is defined under this legislation as "the emergency department of a hospital licensed under chapter 70.41 RCW during the hours the hospital is in operation; or a fire station during its hours of operation and while fire personnel are present."

The Department convened a task force composed of members representing, but not limited to: licensed physicians; public and private agencies which provide adoption services; private attorneys handling adoptions; the licensed nursing community; hospitals; prosecuting attorneys; foster parents; the Department of Health (DOH); the Attorney General; advocacy groups concerned with the availability of adoption records; risk managers; the public; and fire fighters and emergency medical technicians. *(See Appendix I)*

The task force objectives were to recommend methods of implementing this Act, including how private or public funding may be obtained to support a program of public education regarding the provisions of this Act. The task force was instructed to consider all reasonable methods of educating Washington residents about the need for prenatal and post delivery health care for a newborn whose parents may otherwise not seek such care and place their newborn at risk as a result.

The task force was also instructed to consider, and make recommendations regarding:

(a) ways to meet the medical and emotional needs of the mother and to improve the promotion of adoption as an alternative to placing a newborn in situations that create a serious risk to the infant's health; and

(b) methods of providing access to

(i) the medical history of the parents of a newborn who is transferred to a hospital and

(ii) the medical history of the newborn, consistent with the protection of the anonymity of the parents of the newborn. As well, the task force was charged with developing model forms of policies and procedures for hospitals and fire stations to use in receiving newborns.

RECOMMENDATIONS FOR IMPLEMENTATION

RECOMMENDATIONS FOR PUBLIC EDUCATION

Public education is essential to implementation of this law. Education about this law requires an initial period of intense planning and implementation, then ongoing efforts. A state agency, to be determined by the Governor, should have administrative responsibility to oversee and/or implement necessary steps to ensure a continuing education effort.

The primary target audience is pregnant women, 12 – 30 years old, and their partners. Due to potential association with pregnant and/or recently postpartum women who benefit from implementation of this law, education should also be directed toward all women; health care providers; fire fighters and Emergency Medical Services (EMS) personnel; law enforcement personnel; and state government agencies providing health, social, and community services, especially DOH and DSHS. A third group targeted for education includes potential persons of influence who may have the opportunity to counsel a pregnant or recently postpartum woman in crisis, including clergy, school counselors, and the public including friends, mentors, and relatives of the pregnant and/or recently postpartum woman.

Recognizing that no funds are immediately available for public education regarding this law, the task force developed eight recommendations. These are listed below in order of priority and of increasing financial burden.

Recommendations

1. Existing telephone crisis lines and any resource line or agency that might have the opportunity to counsel a pregnant or recently postpartum woman or the woman's influencers will be the primary vehicle for educating the public about this law. In addition to obvious resources such as crisis lines and prenatal care phone resource lines, high school and college health clinics, mental health centers, domestic violence shelters, homeless shelters, churches, and refugee centers should be included in the educational effort.

2. An inventory of designated crisis lines, resource lines, and resource agencies for pregnant women should be developed, maintained and periodically updated by the designated state agency.

3. The state agency designated to oversee the education effort should create and disseminate a standardized educational message to all crisis/resource lines and helping agencies for use in educating those seeking information about pregnancy or parenting options. The message needs to be developed with consultation from those interest groups most affected; for example, DOH, DSHS, hospitals, fire departments, prosecutor offices, etc.

4. The standardized educational message should emphasize the importance of prenatal care and post-delivery care for the mother and pediatric care for the newborn. Counseling and alternative options to parenting should be presented. The message should be non-judgmental and supportive of the woman's decision to parent or transfer her newborn's care to a qualified person at a hospital emergency department or fire station. The message must be clear and emphasize that if the parent decides to transfer care of the newborn, the parent is protected from prosecution. The message must also be clear that transferring a newborn is not the preferred method for managing a crisis situation, but that transfer is one option which offers safety to the newborn.

5. Agencies listed on the inventory should be encouraged to use the message when updating any of the agencies' educational materials, where appropriate. In addition, those agencies with web-based information should be encouraged to incorporate the educational message into their website information or add a link to other sites with information about this law.

6. The designated state agency should ensure development of a media packet for use by public information officers. This should not be a media advisory or press release, but a media packet to help ensure correct and current information regarding this law in the event of a future media occurrence.

    - Public information officers in DOH and DSHS should assist in the development of these materials to help assure the effectiveness and usefulness of the packet.

    - The designated state agency should ensure that media outlets receive a follow-up call after the media packet is sent to assure that materials were received and to answer questions regarding the materials or their uses.

7. The designated state agency should oversee the development of a brochure targeted for pregnant women, but also of use to the general public.

    - Funding is required for development, printing, re-printing, and distribution of this brochure. *(See Possible Funding Sources section)*.

    - Education materials intended for the public should be written at the sixth to eighth grade reading level.

    - The focus of this brochure is to educate the pregnant woman and the public about the importance of prenatal and postpartum care, counseling options, and information about transferring the newborn to

a qualified person at a hospital emergency department or fire station in lieu of abandoning the newborn in an unsafe place.

- The brochure should include resources for prenatal and postpartum care and counseling. This brochure should include the telephone number for Children's Administration Central Intake (1-800-562-5624) where the parent may call if s/he wants to provide information or changes his/her mind. S/he will not be given any information about the newborn until his/her identity is proven. However s/he will be provided the name of the assigned social worker, who will work with the parent to establish their identity in relation to the newborn.

8. A media campaign could be implemented in order to educate women of childbearing age and the public in general.

    - Funding is required for a mass media campaign. *(See Possible Funding Sources section)*.

    - The designated state agency would oversee the implementation of a mass media campaign. An extensive campaign would require the services of a professional marketing or advertising agency.

    - The media campaign would include bus signs, posters, radio and public service announcements.

Potential Funding Sources for Public Education

The task force recognizes that there is no public money available to support expensive efforts to educate the public. The top priority is education of personnel who are most likely to interact with a pregnant or recently postpartum woman in crisis.

For lower cost recommendations, funding may be attained through legislative appropriation and/or in-kind contributions, or transfer of agency funds.

For higher cost recommendations, the task force recommends private and public partnerships.

Possible Funding Sources

- Personal private donations
- Philanthropic organizations or foundations.
- Government appropriations
- Religious organizations
- Grants
- Civic groups

- Pharmaceutical companies
- In-kind contributions
- Private companies
- Hospitals

RECOMMENDATIONS FOR MEETING EMOTIONAL & MEDICAL NEEDS OF THE MOTHER

The task force recommends that transfer sites put together parent information packets to keep on site. A packet should be given to any parent transferring a newborn. Packets should be available at all hospitals, fire stations, and on existing websites so that a parent can provide information about the child later. Packets should include:

- A cover letter to the parent explaining the contents of the packet (written at 6th to 8th grade level) and where to send the packet information to provide additional information for the child. The letter assures the parent that every effort will be made to ensure that the information provided is directed to the appropriate case manager for the child or placed in the child's archived adoption record, should the child choose to request a copy of that record in the future. *(See Appendix B)*

- A medical / social history form *(See Appendix C)* to fill out and mail later in case the person transferring the newborn leaves the facility before giving medical history information to the interviewer or wants to provide additional information later. This item would include an ancestry chart to allow the parent to provide tribal enrollment information if the child is Native American. The ancestry chart should inform parents that by completing tribal enrollment information, they may be giving up their right to anonymity.

- A "parent's message to Newborn" form. *(See Appendix D)*

- An envelope to return information. The envelope should be postage paid and addressed to: "Newborn Safety" Adoption Program Manager, Children's Administration, Department of Social and Health Services, Post Office Box 45710, Olympia, WA, 98504-5710.

- Resource list with statewide hotline numbers as well as a section for the local agency to fill in with local resource numbers. This resource list should include information for mental health counseling services, substance abuse services, and medical services for the parent. *(See Appendix E)*

- Legal information for the parent describing the legal process for placement of the child in a permanent home for adoption. *(See Appendix F)*

Local referral packets must be kept small and simple. The Act requires entities to provide the parent with referral information about adoption options, counseling, appropriate medical and emotional aftercare services, domestic violence, and legal rights. To prevent confusing the parent with large amounts of referral information and long lists of contacts, entities should cover the necessary categories and attempt to identify groups that can assist the parent at a broader level. These broad-based organizations can serve as an entry point to more targeted services.

MODEL POLICIES AND PROCEDURES FOR HOSPITALS AND FIRE STATIONS

The Act also charged the task force with drafting model policies and procedures to help hospitals and fire stations comply with the Act's requirements. These model policies and procedures *(See Appendix G and Appendix H)* may be adapted to a particular hospital's or fire department's practice without the need for much modification. Those entities that wish to use the basic structure of the model policies and procedures may alter the templates. While the use of these policies and procedures is not mandated, the task force encourages any entity drafting its own procedures to review the final products and recommendations so that they may benefit from the discussions that have taken place.

The policies and procedures for fire stations and hospitals follow the same structure even though they differ in their processes. The policies and procedures consist of procedural statements, a parent information form, and a parent information packet.[1]

The procedural component includes directions for hospital or fire station staff so that they may meet the Act's requirements, instructions for how to use the parent information materials, and general instructions for the care of the newborn and the parent. The parent information form, included in the policies and procedures, prioritizes the medical history information and is written in lay language to facilitate communication.

RECOMMENDATIONS FOR DRAFTING POLICIES AND PROCEDURES

Establish Priorities

When a parent is transferring a newborn under the Newborn Safety Act, time is a paramount factor. The infant must have an immediate physical assessment and may need medical attention. It is also crucial to check the mother's medical condition and attempt to obtain a complete history for the child. The parent may feel intimidated, embarrassed, and generally overwhelmed by the enormity of the situation. In these circumstances, the parent may decide to leave before qualified persons at hospitals or fire stations are able to perform complete assessments and take a full history. For these reasons, the task force recommends that any hospital or fire department drafting its own Newborn Safety Act policies and procedures prioritize every step of the process and history. This applies equally to the procedures for the administrative and medical processes as it does to the order of information to be collected on the history form.

[1] *The policies reference a parent information packet – See Appendix B – F for information to include in parent information packet.*

History Forms should be in Lay Language

The history forms should be in lay language, written at a sixth to eighth grade reading level, and should contain as little medical terminology as possible. The parent transferring an infant may be both distracted and intimidated. A person speaking in technical terms may increase the parent's anxiety and make the parent more likely to leave before the complete history is obtained. Interview forms already drafted in lay language serve as a script, avoid complicated medical terminology, and facilitate parental understanding. This allows more information to be obtained in less time, increases the parent's comfort level, and increases the likelihood of completing the entire interview.

Parent Should Receive History Forms to Fill Out at Home and Return by Mail

In the event that the parent is overwhelmed by the situation, the parent may decide to leave the location soon after transferring the child. The parent may leave before or in the middle of the history interview. For this reason, the hospital and fire department policies and procedures recommend any parent transferring a newborn receive a parent information packet. *(See Appendix B – F, for model information to include in the packet)*

Use Existing Protocols and Referral Materials Whenever Possible

The model policies and procedures are designed to assist the fire station or hospital in meeting the requirements of the Newborn Safety Act. They do not, however, supercede any medical protocols that hospital or EMS providers follow. Applicable medical protocols still govern the provision of care to the infant and the mother.

Identification Bands/Trauma Bands should be used for Infant Identification

The provider should place an identification band *(if at a hospital)* or a trauma band *(if at a fire station)* on the infant early in the process. At the time the band is assigned, the provider should write the identification band number on both the provider's copy and the parent's copy of the medical/social history form. This facilitates matching any history information subsequently sent in by the parent to the child to which it refers.

RECOMMENDATIONS FOR IMPLEMENTING POLICIES AND PROCEDURES

Train All Staff in the Policy

The parent may not be able to differentiate between medical and non-medical staff, so all staff should be trained to act within the scope of their responsibilities if faced with a Newborn Safety Act transfer. While only qualified medical

personnel can perform a health assessment and obtain the history, other staff members must be made aware of the Act's basic provisions and where to take the parent and infant if faced with a transfer.

Train Staff in Communication Style

Effective and nonjudgmental communication with the parent can result in more history information for the infant and an increased likelihood that the mother will consent to a medical exam and treatment, if necessary. The history forms are drafted in lay language to help facilitate communication and promote trust.

Forms should refer to the Infant as "Babyboy Doe" or "Babygirl Doe"

Child Protective Services does not have computers programmed to track cases of infants transferred under the Act. However, by referring to these infants as either "Babyboy Doe" or "Babygirl Doe," it is possible to identify these infants more easily within the current system. Hospitals are, therefore, strongly encouraged to use these names on the infant's patient care report and birth certificate.

Consider Satellite Clinics and Unstaffed Fire Stations

Unstaffed fire stations are not, and satellite clinics may not be, covered by the Act as an "appropriate location." Therefore, the model policies and procedures do not address them. In practice, however, it is likely that a confused parent may not realize that these locations are not staffed and equipped to handle a newborn transfer and may mistakenly leave an infant at either of these locations. To reduce the risk of a negative outcome in the event that a child is abandoned at one of these locations, covered organizations associated with satellite clinics or unstaffed fire stations should consider whether or not there are any feasible options that they could implement for these places.

Consider the Decriminalizing Intent of the Act Before Involving Law Enforcement During a Transfer Situation

When contemplating the involvement of law enforcement, providers must consider the likely trepidation of the transferring parent and the Newborn Safety Act's intent to decriminalize these types of transfers. If the provider needs to call law enforcement only to transfer the child into custody, it is best to wait to call law enforcement after the parent has left. However, medical providers should not hesitate to call law enforcement when there is evidence of child abuse or neglect, to assure scene safety, or if the child is clearly more than 72 hours old.

RECOMMENDATIONS FOR IMPLEMENTING THE ACT IN THE COMMUNITY

Law Enforcement Must be Educated in the Act's Provisions

One of the primary purposes of the bill is to encourage parents to safely transfer an infant to a safe place as defined by the act, by offering them immunity from prosecution for abandonment. Law enforcement agencies should be educated about the Act and how it relates to abandonment laws.

Private Ambulance Services Must be Educated in the Act's Provisions

Private ambulance services are not covered by the Act. However, because of their presence in the community, they may find themselves faced with a transfer situation just as a fire station might. These organizations frequently have ambulances stationed in public areas and have facilities that the public may confuse with a fire department. Educating these members of the community for the potential transfer of an infant and sharing local policies and procedures may improve the outcomes for infants.

Hospitals and Fire Departments Must Look for Ways to Keep Costs Low

The task force has several suggestions for controlling the expense of implementing the Act and encourages hospitals and fire departments to network among themselves for additional ideas. The task force recommends that hospitals and fire departments share the same forms and referral information sheets to simplify paperwork in the community and make restocking easier. It is also recommended that appropriate state agencies have the model forms available for providers who request them. Emergency Medical Services can reduce the costs of implementing the policies and procedures by incorporating Newborn Safety Act training into ongoing training and evaluation programs and continuing medical education classes.

Model Policies and Forms should be Made Available as Broadly as Possible

The policies and forms should be available on the Internet as documents that can be downloaded and modified. These documents should also be made available upon request in a hard copy or electronic format.

Parent Materials Must be Translated into the Most Commonly Used Languages for the Area's Demographics

These materials should all be made available through the web site of a designated state agency charged with providing them in several languages. They could then be downloaded by hospitals and fire stations at no additional cost for individual translations.

Local Protocols for Emergency Medical Services (EMS) Agencies Must Address the Newborn Safety Act

Patient care protocols for EMS providers instruct them in the delivery and care of newborns and mothers. These protocols should be modified to refer EMS providers to their fire department's policies and procedures. The basic requirements of the Act should be outlined; however, since each fire department may implement the Act differently, details should be left to each department's policies and procedures.

Child Protective Services (CPS) Responsibilities Under the Act:

The Act requires CPS to take custody of the child within 24 hours of receiving a report that a newborn has been transferred. CPS staff must be educated about the provisions of the act, particularly as the act pertains to CPS timelines for securing custody. CPS staff should be prepared to seek either a court order granting temporary custody or law enforcement protective custody to meet CPS obligations under the act. In the event that law enforcement custody is required, CPS staff should arrange for that custody to be taken after the parent has left the premises.

CHALLENGES OF IMPLEMENTATION

- ***Challenge:*** Concern that confusion over the terms of the Act might inadvertently result in a newborn being abandoned at an unstaffed fire station.

  Recommendation: Educating the public, local fire personnel, and city governments of the provisions of this law and what constitutes abandonment versus what is a legal transfer of a newborn under the law should help address this issue.

- ***Challenge:*** Refusal of some city governments to act in accordance with this law.

  Recommendation: The designated state agency will approach city governments, including their risk management and insurance companies to educate regarding the provisions of the law.

- ***Challenge:*** How will we know if the law is working in Washington State?

  Recommendation: An evaluation/tracking system should be developed in the future and assigned to a state agency. Statistics should include the number of newborns transferred under this law versus the number of newborns abandoned in the state.

NOTE OF APPRECIATION

The task force members would like to thank the many fire departments and hospitals that provided copies of their existing or interim policies and procedures regarding newborns being transferred to them under this new law. That information was reviewed by the task force and utilized in the development of the model policies and procedures included in this report. The task force hopes that these models will assist hospitals and fire stations that either have not yet drafted their own policies and procedures or want to revise their current policies and procedures.

Thanks also to the many members of the task force who spent days in meetings and hours of personal time working on components of this report. All task force members contributed unique and important expertise to this report.

Special thanks to the Tacoma Fire District and the Department of Health for providing meeting space to the task force.

STRATEGIES FOR EDUCATION OF THE PUBLIC

Target Audience

Primary	Secondary	Person of influence
Pregnant women, *Ages 12-30*	All women	Friends of pregnant woman
Father of baby	Health Care Providers	Mentors
	Fire Fighters/EMS	Pastors
	Law Enforcement	Relatives of woman
	State Government	School Counselors

Methods of Educating the Public

- TV
- Radio
- Bus signs
- Brochure
- Web site
- Collateral *(business card size information, stickers, posters, placards, signs)*

Distribution/location/outlets

- *TV:* Public Service Announcement, paid ad, news coverage, talk shows, network vs. cable
- *Radio:* Public Service Announcement, news coverage, promo ops, talk shows
- *Bus Signs:* in/on bus, at stops
- *Brochure:* to all target groups
- *Web site:* link to existing sites
- *Collateral:* see list of distribution outlets

Distribution for Brochure

- Government agencies
- Schools
- Care providers' offices
- Public restrooms (men's and women's)
- Bars
- Clinics
- Grocery and drug stores
- Fairs
- Fast food outlets
- Mini-marts

Distribution for Brochure (continued)

- Newsletters
- School newspapers
- Churches
- Police/fire stations
- Music stores
- Mall kiosk
- Bus signs
- Churches
- Teen centers
- Alternative schools
- Professional agencies
- Professional newsletters
- Outdoor events
- State parks
- Colleges/universities
- Large department stores
- Grocery store associations
- Skateboard parks
- Race tracks
- Public swimming pools
- Coffee shops
- Casinos
- Libraries
- Temp agencies, labor halls
- Homeless shelters
- Mental health clinics